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08/598,578 02/12/96 YAMASHITA

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EXAMINER

35M1/0409

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FENSTERMACHER, *M 477*

ART UNIT PAPER NUMBER

3502

*6*

DATE MAILED: 04/09/97

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 1/22/97 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☐ Notice re Patent Drawing, PTO-948.
- ☒ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, Form PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐

Part II SUMMARY OF ACTION

- ☒ Claims 1-12 are pending in the application.  
Of the above, claims 9-12 are withdrawn from consideration.
- ☐ Claims have been cancelled.
- ☐ Claims are allowed.
- ☒ Claims 1-4, 6-8 are rejected.
- ☒ Claims 5 are objected to.
- ☐ Claims are subject to restriction or election requirement.
- ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on                     . Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on                      has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed on                     , has been ☐ approved. ☐ disapproved (see explanation).
- ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☐ been filed in parent application, serial no.                     ; filed on                     .
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

Serial Number: 08/598578

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**Part III DETAILED ACTION**

***Election/Restriction***

1. Claims 9-12 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected species. Election was made **without** traverse in Paper No. 5.

***Priority***

2. There is no priority claimed.

***Information Disclosure Statement***

3. An initialed copy of the Information Disclosure Statement, filed 4/12/96, accompanies this action.

***Drawings***

4. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.
5. The drawings are objected to because they do not include certain reference signs mentioned in the description. 37 CFR §

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1.84(f) states, "Reference signs not mentioned in the description shall not appear in the drawing and vice versa." The following reference signs are not included in the drawings: "lower portion 60a" as disclosed on page 9, line 25. Correction is required.

***Claim Rejections - 35 USC § 112***

6. Claims 2 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, lines 3-4, the recitation "for engagement with said support portion" is indefinite. The fine adjustment screw (52) engages recess (62) not the support.

Claim 7, lines 5-7, renders the claim indefinite. It is not clear what Applicant is claiming. There doesn't appear to be any specification antecedent basis for the contact member. As a result, it is unclear what Applicant is claiming.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 4, 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagano (4,611,500).

Nagano shows a brake lever mechanism comprising a base member (2) formed with a cable guide (cable passes through end of portion (14)), an adjustable pivot point (41), a lever arm (4) movable from a brake dis-engagement position to a brake engagement position, said handle formed with a cable connector (45) which is where the cable contacts the lever, an adjusting mechanism (Figure 6) mounted in the support portion for adjusting the distance from the pivot point to the cable connection point for adjusting the force and travel characteristics of the brake lever mechanism, a slot (170) formed in the support, a pin member (3) extending through the slot, and a cable length adjusting member (5) for adjusting the tension of the cable.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagano ('500) in view of Nakamura (4,916,967).

Nagano shows the claimed invention except for an abutment screw for adjusting the relative position of the brake lever to the support portion.

Nakamura shows a screw (35) which extends through a portion of the mounting bracket (25) and contacts the brake lever (26) for adjusting the relative position of the brake lever to the support bracket.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the adjustment mechanism of Nakamura into the brake operating device of Nagano in view of the teaching of Nakamura for the purpose of providing an adjustment device for adjusting the relative position of the brake operating lever to the support bracket (Column 5, lines 30-40, Nakamura).

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***Allowable Subject Matter***

11. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lumpkin ('743 and '927) show adjustable leverage brake lever arrangements. Wu shows a brake lever which uses a set screw for adjusting the distance between the handlebar and the brake lever to be suitable for any size hands. Nagano shows an adjustable leverage bicycle brake arrangement.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Fenstermacher whose telephone number is (703) 305-7438. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, can be reached on (703) 308-0830. The fax phone number for this Group is (703) 308-3519 or -3686.

DMF 4/2/97  
DMF  
April 2, 1997

*Charles A. Marmor 7/5/97*  
**CHARLES A. MARMOR**  
**SUPERVISORY PATENT EXAMINER**  
**ART UNIT 3502**